

BEFORE THE  
POSTAL RATE COMMISSION  
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OFFICE OF THE SECRETARY

Postal Rate and Fee Changes, 2001 )

Docket No. R2001-1

COMMENTS OF THE COMPUTER & COMMUNICATIONS  
INDUSTRY ASSOCIATION (CCIA) ON THE MOTION OF THE  
OFFICE OF THE CONSUMER ADVOCATE (OCA) TO REQUEST  
THAT THE COMMISSION INSTITUTE A PROCEEDING TO  
CONSIDER THE POSTAL/NONPOSTAL CHARACTER OF  
SPECIFIED SERVICES AND THE ESTABLISHMENT OF RULES TO  
REQUIRE A FULL ACCOUNTING OF THE COSTS AND REVENUES  
OF NONPOSTAL SERVICES  
(January 28, 2003)

On behalf of the Computer & Communications Industry Association (CCIA), I submit the following comments on the request of the Office of the Consumer Advocate (OCA) for the Postal Rate Commission to institute a proceeding to consider the postal/nonpostal character of specified services and the establishment of rules to require a full accounting of the costs and revenues of nonpostal services. We wholeheartedly agree with the OCA's concerns about the Postal Service's forays in to electronic commerce and other commercially competitive ventures, and believe the Commission's oversight and involvement in this area is long overdue.

### Introduction

CCIA is the industry association representing Internet, computer, telecommunications, software, and electronic commerce companies ranging from small, entrepreneurial firms to some of the largest in the industry. CCIA's member companies employ over a half-million people and generate annual revenues exceeding \$300 billion. We are the industry's leading advocate for free and open markets and fair, dynamic competition. Our industry has found that this principled approach to information technology and electronic commerce is a significant reason why the high-tech industry in the U.S. has experienced such rapid growth in recent years, to the distinct benefit of American consumers and workers.

The United States has become the world's dominant provider of Internet-based services, including electronic financial services. Some governments have been far less enlightened in the governance of e-commerce and have pursued a heavy-handed, regulatory role, or even sought to manage and direct competition in the industry. Other governments have continued to intrude into their domestic commercial markets by offering government-

sponsored goods and services, thus distorting their economies and stunting their economic growth.

With the rapid growth of electronic commerce, the Internet, and computing, opportunities for new businesses and services have exploded. Increasingly, sophisticated and scaleable digital communications and e-commerce tools have minimized barriers to entry into new markets, allowing a wide range of competitors to participate. However, corporations, small businesses, and Internet startups are not the only enterprises looking for opportunities to expand their reach into new markets with e-commerce offerings: Federal and State governments are increasingly viewing the Internet and electronic commerce as a new platform for government-provided products and services for consumers in direct competition against private sector market participants. These e-commerce ambitions by government entities are separate and distinct from e-government initiatives to digitize and modernize traditional governmental functions, which are an appropriate and important part of government reinvention and reengineering.

CCIA has viewed with great trepidation the growing efforts by government to launch competitive e-commerce initiatives and has worked on Capitol Hill, with the Administration, and in various States, to rein in these activities. While we support the government's efforts to modernize operations, improve citizen services, and utilize the tools and technologies of the Information Age, we do not believe the government should be a commercial competitor in the U.S. economy, whether in nascent, emerging industries or even thriving, private-sector commercial markets. Such activity is antithetical to our nation's economic history as the most successful free market, capitalist society ever created, and unfair to both American taxpayers underwriting such activities as well as to the shareholders of private businesses forced to compete with publicly-funded government entities for customers. Simply put, the United States Government was created to perform certain essential functions and services for our nation and its citizens, but one of these purposes was not to become a commercial market enterprise.

### **United States Postal Service Plunges into E-Commerce**

CCIA has identified a number of areas in which the Federal and State governments have expressed interest, or launched initiatives, as publicly funded market competitors against our members and other private companies. Perhaps the most egregious example has been the Postal Service, which has become quite bold in its efforts to leverage its Postal Monopoly into other markets, cross-subsidizing and broadening its range of services into a myriad of e-commerce enterprises. Notwithstanding its efforts to present itself as a commercial enterprise, the U.S. Postal Service is in every significant respect an arm of the United States Government. Indeed, in the aftermath of September 11<sup>th</sup> and the anthrax crisis, President Bush correctly stated that our Postal workers are part of the uniformed service of the United States.

In CCIA's view, monopoly abuses by government entities such as the Postal Service are no less repugnant to a free marketplace than any similar anticompetitive abuses by private-sector companies. In fact, a government monopoly is actually far worse and more

dangerous because the anticompetitive and monopolistic behavior of a government agency or government-sponsored institution is beyond enforcement actions or private causes of action under the Sherman and Clayton Antitrust Acts and other statutory limitations on private firms. Precisely because it was never anticipated or intended that the national sovereign would act as a commercial enterprise, the capacity for anticompetitive abuse by such activity is without institutional checks and balances.

Nevertheless, in the last few years the USPS has launched a suite of USPS electronic financial and consumer services. Examples of these services include:

- USPS eBillPay and Send Money – launched in April 2000 provides USPS-branded bill presentment services and person-to-person transfers and bill payments with electronic cash transfers. These services lost over \$10 million in FY 2000;
- USPS Tax Center – actively pursued at the planning level in 2000 and 2001, the Postal Service attempted to get into the tax preparation software and electronic filing online services business, seeking to add web-based tax services to its eBill Pay and Send Money e-commerce portfolio to create an online consumer financial services hub. At the present time, USPS has no announced timetable for introducing these services;
- USPS Electronic Postmark – introduced in April 2000, this application can be attached to Internet communications to protect document integrity and provide a trusted time and date stamp. The USPS has lost nearly \$9 million on this program since its inception;
- Post Electronic Courier Service (PosteCS) – started in April 2000, this service was designed to track messages and receive proof of delivery along with sender and receiver authentication. The USPS announced in March that, after losing over \$7 million on the program, it was terminating PosteCS;
- NetPost CardStore – initiated in December 2000, allows users to create online greeting cards for e-mailing. NetPost CardStore is among the most successful USPS online services, having lost only \$19,000 since its inception;
- NetPost Certified Mail – launched in January 2001, this service protects the integrity of electronic documents and ensures they have been delivered securely to the intended recipients. This service has actually earned a profit – \$298.

Obviously, each of these service initiatives duplicates existing commercial businesses in digital signatures, authentication, electronic financial services, and related e-commerce technologies. The Postal Service also has discussed plans to assign e-mail addresses to all Americans or all physical addresses, to take control of the .us web domain, and to deploy computer kiosks in all post offices for sending and retrieving e-mail. These are rapidly emerging areas of e-commerce and any information technology business or prospective entrepreneur would certainly be eager to target these services as an opportunity for growth. The USPS sees itself as aspiring to become an Internet portal for e-commerce services -- competing directly with Yahoo!, America Online, or Excite -- and is in fact explicitly describing itself that way in printed in-house communications with its employees.

The position of the Postal Service has been that its proposed new e-commerce service offerings are entirely within the scope of their purview. Specifically, the explanation has been repeatedly offered that since the agency delivers mail that contains bills and payments, it believes it is appropriate to now get into the business of electronic bill presentment and payment services. However, the same explanation could take the Postal service from delivering mail that contains sales literature about automobiles to instead opening USPS auto sales websites and showrooms. The same analogy can be applied to the Postal Service relationship to every American industry, whose mail it delivers, without exception. However, the Postal Service cannot be permitted to define its role and its monopoly as including the business content of the mail it delivers. Such an assertion is an egregious overreach of the proper, limited mission of the U.S. Postal Service, and its intended role in the American economy as a part of the United States Government.

The Postal Service's efforts to shed its true U.S. Government identity recently led it to change the universal resource locator (URL) of its official Internet website from "usps.gov" to "usps.com". This intentional blurring of its public identity flies in the face of the fact that the Postal Service remains an independent establishment of the Executive Branch of U.S. Government.

These activities extend beyond the traditional postal/nonpostal distinction discussed in the OCA motion. Clearly, these are not "postal" services as contemplated within the statutory and regulatory framework established by Congress and the Commission. And as the OCA points out, these are also not "nonpostal" services performed on behalf of government agencies. Rather, these are "extra-postal" activities being conducted without statutory authorization and in violation of specific public policy mandates of Congress and the Administration. We strenuously object to the Postal Service, as a government establishment, engaging in these extra-postal activities and servicing private sector e-commerce markets, injecting itself into competition with established, competitive commercial industries.

### **The Postal Service's Vision: An American PTT**

Evidence has also emerged that the Postal Service's plans may even extend beyond online consumer services into the provision of Internet telephony and other telecommunications services. In a hearing on September 7, 2000 before the Senate Government Affairs Committee's Subcommittee on International Security, Proliferation and Federal Services, the former Chairman of the Postal Rate Commission, Edward J. Gleiman, speculated that the long-range strategy of the Postal Service may be to transform itself from a postal and parcel delivery service into a communications company:

[T]he Postal Service cites four bases for viewing e-commerce products as appropriate for serving its institutional purposes. One rationale is that such services, in combination with its other functions and activities, should help to "bind the Nation together," in keeping with the basic function prescribed in section 101 of Title 39 [of the U.S. Code].

This is a plausible rationale, but only if you overlook the fact that the United States is already "bound together" electronically by the private sector—initially by the telegraph and telephone but now by an ever-expanding variety of telecommunications media, including the Internet. Is the Postal Service suggesting that there is an unmet national need for publicly provided electronic services? If so, this would represent a major national policy finding, and accordingly should not be acted upon before investigation and very careful deliberation by Congress.

A second but related rationale is the Postal Service's suggestion that, since "binding the Nation together" is part of its basic function, initiatives such as e-commerce serve an appropriate objective in their own right by fostering national communications. The GAO report refers to this objective as "expanded universal access."

This justification provokes another question: at some point, would pursuing the objective of binding the Nation together through new media change the Postal Service from a delivery company to a communications company? This may be what the Postal Service has in mind. If so, this would be contrary to the trend elsewhere in the world, where national telecommunications authorities are being separated from countries' postal administrations and privatized.

Looking at the Service's website the other day, I came across the Frequently Asked Questions section devoted to the PosteCS service. Here is the Q. and A. I found particularly interesting. Question: "How does PosteCS fulfill U.S. Postal Service's primary mission?" The first sentence of the answer: "PosteCS fulfills the Postal Service's mission to 'bind the nation together through its communications'." I do not know what or whom this answer intended to quote, but it was not section 101. In any event, the diversification of the Postal Service from what has been a nationwide delivery service into a communications company would represent a major change in national policy, and as such should be decided publicly. If such a change is deemed appropriate, it might best be implemented through new legislation.

In 2001, Postmaster General William Henderson gave credence to Chairman Gleiman's concerns when he described the Postal Service's vision in a published interview.

And the next [strategy] is to leverage our own electronic infrastructure for commercial purposes. We have on every – on most every – will have on most post offices that have POS, a point-of-sale machine, a backup satellite capability.... It now has voice and video capability, which makes it an enormous tool, a giant highway, and it's more reliable than optical fiber because we have optical fiber into the POS machines. So it's a huge asset that this organization has, that it's now looking and thinking about who – and you say who could use it? Well, anyone could use it who has a data transmission need. It's completely secure. You would just lock into the post office, and you could transmit data anywhere in the world.

CCIA views even the remote possibility of a government-owned PTT in the United States as a profoundly alarming prospect for our economy. We believe that it is quite clear that

the Postal Service has strayed far from its mission and far beyond the statutory authority provided to it by Congress – in fact, far beyond any legislative or Constitutional intent – and is losing millions of dollars in the process. Furthermore, the future, unbounded plans of the USPS appear to extend even farther, and if implemented would bring about a fundamental change to the laissez faire, free-enterprise economic model that has thrived in our country since its inception. It is particularly ironic that such a shift would occur just as American trade negotiators have begun to succeed in convincing foreign government to deconstruct their government-owned postal and telecommunications monopolies.

In this context, a thorough examination of the actual mission of the Postal Service is imperative. Undoubtedly, this issue will be considered by the Presidential Commission on the U.S. Postal Service, but it is also essential that the PRC examine this matter as well. The PRC will undoubtedly be called upon to assist the Presidential Commission in its work, and the PRC need not postpone looking into this critical question. We believe the PRC and the Presidential Commission will both conclude that the USPS should be required to make a concerted effort to refocus itself on the core mission of delivering hard copy letter mail.

### **USPS Funds Losing Competitive Ventures with Monopoly Revenue**

Notwithstanding the legal, policy, and macroeconomic issues raised by these activities, it is fundamentally unfair for the American taxpayer and the average citizen buying a stamp to be forced to become an unwitting financial underwriter for the U.S. Government to launch competitive ventures in commercial business. Without question, the USPS is cross-subsidizing their new e-commerce enterprises with taxpayer revenues from the Postal rate base, derived from selling stamps, postage, and other mail delivery services under their statutorily imposed Postal Monopoly.

As the Commission is aware, the General Accounting Office (GAO), in a report issued just over a year ago, blasted the Postal Service's e-commerce initiatives, finding that financial information provided by the USPS on its e-commerce ventures is inaccurate, incomplete, and inconsistent. The GAO also admonished the USPS to address persistent concerns that USPS' e-commerce initiatives are being cross-subsidized by other postal products and services. According to the GAO performance of USPS' e-commerce initiatives has fallen far short of expectations (e.g., FY 2001 projections for e-commerce revenues was \$104 million; actual revenues through first three quarters of FY 2001 were less than 1% of this). A full accounting of the total costs of the Postal Service's failed commercial endeavors has never been made, and so no one can accurately quantify how much of the frequent postal rate increases imposed on American consumers and businesses in recent years are directly attributable to the financial losses created by these misadventures. Indeed, no deep and broad accounting of waste, fraud, and abuse in the U.S. Postal Service has ever been adequately performed, either to determine the actual causes and sources of their continuous demands for rate increases, or as a benchmark against which to make future financial or management decisions. This is due in no small

part of the absence of the kind of adequate or complete financial accounting and management systems necessary to do so.

Therefore, in many cases, the consumer and business customers of the Postal Service are directly penalized by the ongoing lack of business controls and accountability in the organization. Heavy users of USPS mail service (e.g., banks, financial institutions, credit card companies) are actually compelled to fund a new competitive entrant into private-sector markets in which they compete. Likewise, every U.S. citizen who buys a 37-cent stamp is actually an unwitting financial partner for the agency's commercial market ventures.

In addition, the Postal Service sits in a conflicted role of regulator as well as competitor in the marketplace, with an ability to control and shape markets that would not be lawful for any private company with comparable monopoly dominance. Indeed, the USPS regulates all "mail-related" activities of the private sector, and if it desires to do so, could easily deign to regulate the entire private sector – while it acts as a competitive market participant – in any market it chooses to target as potentially fertile ground for its ambitions and revenue needs.

It is important to note that while the GAO and the OCA have been able to conjecture about the magnitude of the losses incurred by the Postal Service in these ventures, their figures are at best rough estimates of these shortfalls. In its report on these services – "Update on E-Commerce Activities and Privacy Protections" – the GAO severely admonished the USPS for its failure to report fully all costs related to the development and execution of its e-commerce initiatives:

[F]inancial information related to USPS' e-commerce and Internet-related activities is still not complete, accurate, and consistent.

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USPS does not have clear and comprehensive policies and procedures that would address how all of the direct and indirect revenues and costs, including those mentioned above, associated with its ecommerce and other new products and services are to be reported.

It is incumbent upon the Commission to ensure that the Postal Service finances are open and transparent, and all costs and revenues are reported fully and accurately, and that such comprehensive financials are the basis for an accountable approach to the future disposition of revenues generated in, and expended from, the Postal rate base. Otherwise, the public can have no certainty that postal rates have a sound financial basis, and competitors of the Postal Service will be unprotected from the USPS' monopoly on First Class mail as a cross-subsidizing funding mechanism for competitive ventures.

### **Postal Service commercial venture contravene established Federal policy directives**

In the 1950's, President Dwight Eisenhower established a policy directive, known as OMB Circular A-76, which has been updated or renewed by each president since.

Among other basic principles, Circular A-76 states: "In the course of governing, Government should not compete with its citizens. The competitive enterprise system, characterized by individual freedom and initiative, is the primary source of national economic strength."

Pursuant to Circular A-76, CCIA has urged the government to respect the private sector's leadership in creating diverse goods and services and robustly competitive markets and not to attempt to move into or take over those markets, merely because it is possible to do so. The very nature of the Internet has succeeded in lowering barriers to competitive market entry, but government need not avail itself of these opportunities. CCIA continues to believe that government can and should, however, fill the white space and voids in society, where no other player can effectively serve or is serving and where there is grave public need, such as delivering First Class mail.

It is deeply disturbing that the Postal Service attempts to distinguish itself from the U.S. Government, while enjoying the privileged and protected position it holds as an independent establishment of the Executive Branch with a statutory monopoly. As a uniformed service of the United States, the Postal Service is very much a governmental institution and plays an important role in our homeland security infrastructure.

Given the clearly governmental and public service role of the mission of the Postal Service, it is very important to maintain clear distinctions between e-government and e-commerce activities, delineating the policy considerations that government agencies should take note of when contemplating new ventures that might compete against private-sector enterprises. Toward this end, we commissioned a study by the most recent Nobel Laureate for economics, Dr. Joseph Stiglitz. We believe this study, The Role of Government in a Digital Age, would be instructive to the Commission as it evaluates the activities of the Postal Service and considers the propriety of its electronic commerce ventures. A copy of the study is attached to this filing.

## **Conclusion**

The Postal Service and other government agencies certainly need to keep pace with technology and the evolution of the Internet, but that need not entail injecting the government into the thriving private marketplace of electronic commerce. The technology and telecommunications industry has created incredible new products and services and is delivering them to consumers by creative and efficient methods unheard of even five years ago. These offerings will continue to proliferate and compete with each other in a dynamic environment so long as the government and government-sponsored institutions play a limited and noncompetitive role. With an infrastructure established through the U.S. Treasury, taxpayer subsidies, statutory protections, and the government-sponsored Postal Monopoly, the Postal Service's entrance into these markets is both unfair to private companies and consumers, as well as detrimental to competition and innovation.



We urge the Commission to approve the OCA request for a proceeding on this matter and look forward to working with the Commission and its staff on this very important matter.

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